



Agenda Item # 4.1

Minutes of June 20, 2012

The Sonoma County Waste Management Agency (SCWMA) met on June 20, 2012, at the City of Santa Rosa Council Chambers, 100 Santa Rosa Avenue, Santa Rosa, California

Present:

City of Cloverdale	Nina Regor, Chair
City of Cotati	Susan Harvey
City of Healdsburg	Mike Kirn
City of Petaluma	Dan St. John
City of Rohnert Park	John McArthur
City of Santa Rosa	Jennifer Phillips
City of Sebastopol	Sue Kelly
City of Sonoma	Steve Barbose
County of Sonoma	Susan Klassen
Town of Windsor	Matt Mullan

Staff Present:

Counsel	Janet Coleson
Staff	Patrick Carter
	Karina Chilcott
	Henry Mikus
	Lisa Steinman
Clerk	Debra Dowdell

- 1. Call to Order Special Meeting**
The meeting was called to order at 9:00 a.m.
- 2. Agenda Approval**
Susan Harvey, City of Cotati, moved to approve the agenda. Susan Klassen, County of Sonoma, seconded. Agenda approved.
- 3. Public Comments (items not on the agenda)**
None.

Consent (w/attachments)

- 4.1 Minutes of May 16, 2012
- 4.2 MCR Container Expenditure
- 4.3 Eighth Amendment to Petaluma HHW Services Agreement

Chair Regor noted an error on Item 4.1 Minutes of May 16, 2012 on page 4, Item 6 the representative from City of Santa Rosa should be Jennifer Phillips instead of Dell Tredinnick.

Matt Mullan, Town of Windsor, moved to approve the consent calendar with the amended May minutes. Susan Harvey, City of Cotati, seconded. City of Sonoma and City of Sebastopol abstained. Consent calendar approved as amended.

Regular Calendar

5. **Compost Operations Contract**

Henry Mikus, Executive Director, gave a brief history on the steps that have been taken toward initiating a new Compost Operations Contract. He recapped on last month's Board meeting recommendation to use Sonoma Compost Company (SCC) for a contract through February 2017, concurrent with the end date for the SCWMA. The alternative would be to go forward with a one year extension of the current contract, which is a three party contract between SCC, County of Sonoma and the SCWMA. The preference would be to have two separate two party contracts; one with whoever the chosen contractor for operations and a separate contract between the SCWMA and the County for use of the land. Staff recommendation is approval of the two party agreement with SCC as presented.

Board Discussion

Before beginning the composting agreement discussion, Chair Regor asked if there was any jurisdiction not prepared or did not have the authority to vote on this unanimous vote item today. Susan Klassen, County of Sonoma, was not authorized to vote on the item. Ms. Regor asked Ms. Klassen if there was any insight she would like to add. Ms. Klassen replied that the County is supportive of SCC and that they have no issue with the selection as contractor. She did not get authorization to vote today primarily because the other two-party agreement for the lease has not been completely reviewed by County staff. There is a scheduled break for the Board of Supervisors until August. The County is concerned about having a lease with the same timetable as the proposed contract without having a timeline related to the relocation of the compost facility including an incentive to move forward. She added an extension of the contract was an option.

Chair Regor commented that if there was a contract extension it should be short term due to the significant cost.

Dan St. John, City of Petaluma, stated that if the contract was extended there would be about a \$30,000 loss each month. Mr. Mikus confirmed that observation.

Matt Mullan, Town of Windsor, stated his frustration with regards to getting an agreement approved with a company that has been providing good service for a decade, which proposes to save money and provide additional services. Now in the eleventh hour, the County has reservations.

Susan Harvey, City of Cotati, said the scope of services doesn't mention food waste. Mr. Mikus explained that the permit that the SCWMA holds for that facility does not allow full food waste. This means vegetative food waste can be accepted, but meat and dairy cannot. The long term plan has been to put a facility in place that would be able to take full food waste. SCC offered to do a pilot program to take a limited amount of full food waste to accommodate some of the flow of material in advance of developing a new facility. Sonoma Vermiculture, who could take about 30,000 tons of food waste a year, is also being considered. Ms. Harvey stated she's very supportive of the contract and noted she has been pleased with SCC.

Mike Kirn, City of Healdsburg, noted that SCC needs a six month lead time in the event that the contract is not extended. Any agreement extension granted needs to take that into consideration; a four month extension becomes a ten month extension. Mr. Mikus added if there was no extension approved, then SCC would stop accepting waste on July 15, 2012 and cease their operation and vacate the site by November 15, 2012.

Matt Mullan, Town of Windsor, feels the County should call a special meeting with the Board of Supervisors to resolve this issue and avoid the possible shutdown of SCC, one of the most popular programs in the County.

Susan Harvey, City of Cotati, asked if SCC shut down would the waste then go into the landfill. Mr. Mikus responded yes. Ms. Harvey felt that would be a crime.

Chair Regor noted if a one year extension were done it would constitute a loss of approximately \$366,000 in revenue. Ms. Regor asked if there were mechanisms in place to be able to end a one year contract early in the event that an agreement was negotiated earlier. Janet Coleson, Agency Counsel, responded there are termination provisions in the existing agreement. Ms. Regor asked if the SCWMA has ever been beyond its deadline when it approved the extended agreement for SCC. Ms. Coleson replied not to her knowledge. Mr. Mikus added he had checked the records and they have not.

Jennifer Phillips, City of Santa Rosa, asked if the SCWMA enters into the contract and should there be an incident at the facility during the time the County hasn't signed the agreement, would the cities be liable and the County would not. Janet Coleson, Agency Counsel, replied the agreement would not truly be in effect. It would be a good faith acceptance of materials on the part of SCC and they would be liable.

Susan Klassen, County of Sonoma, advised that the third party agreement doesn't expire until November 15, 2012 so there should be is no concern for liability. Ms. Coleson affirmed that was the case.

Public Comment

Pam Davis, Sonoma Compost Company, acknowledged that this long process validates SCC's efficiency and effective pricing structure. They've been operating on a series of short term agreements for some time now which makes it challenging for them to conduct their business. They're looking forward to having a sufficient term to amortize some needed improvements. Included in their short term proposal is an opportunity to get some aerated static pile experience to do full food scrap composting to make them more competitive going forward to the new facility. Should SCC get into an extended short term agreement they would welcome the opportunity to roll that into a longer term.

Board Comments

Dan St. John, City of Petaluma, asked if SCC would be willing to stand by their pricing while working out this issue with the County. Ms. Davis answered the pricing was based on a longer period of time with amortization so the pricing would have to be done under the existing terms.

Janet Coleson, Agency Counsel, advised after reviewing the termination conditions there's an allowance for two one-year extensions. If a one-year extension was desired it could be done, if a shorter time frame is desired it could only be done with agreement from all parties.

Susan Klassen, County of Sonoma, clarified that the reason the Compost Facility is different from the Household Hazardous Waste (HHW) Facility is because the County has no alternative use for the property under the HHW building at this time or in the foreseeable future. The issue with the current three party agreement is the size and location of the Compost Facility the County is obligated to provide. The County wants an agreement in place that addresses location and duration of their stay in the current location. There's no intent by the County to stop the accepting of material and processing operations at the Compost Facility. Ms. Klassen stated it was her belief that the additional revenue received by evoking the new agreement was not anticipated in the budget. Mr. Mikus confirmed. Ms. Klassen

recommended a six month extension to the current contract with SCC. Chair Regor asked if Ms. Klassen had the authority to do that. Ms. Klassen replied yes.

Steve Barbose, City of Sonoma, stated that regardless of whether there was money to pay for the extension it was still \$360,000 a year or \$30,000 a month that is going to be lost because the County isn't prepared to move forward. He's extremely frustrated and fully supportive of a long term agreement with SCC.

Susan Harvey, City of Cotati, shared her frustration over losing that kind of money during these difficult budget times.

Matt Mullan, Town of Windsor, moved to approve a multi-year agreement with SCC. Dan St. John, City of Petaluma, seconded. Sonoma County opposed the motion which failed because a unanimous vote was required.

Dan St. John, City of Petaluma, moved to extend the contract with SCC for 4 months. Susan Harvey, City of Cotati, seconded. Janet Coleson, Agency Counsel asked if SCC would accept the extension changes. Pam Davis, SCC, responded yes. Ms. Coleson asked if an agreement was reached with the County for a two-party agreement before the four month extension was up if SCC would allow termination of the 4 month three-party agreement. Ms. Davis replied that would be acceptable.

Janet Coleson, Agency Counsel, clarified the new expiration dates of a four month extension. The operating term would expire November 15, 2012 and the post operating term would expire March 15, 2013.

Dan St. John, City of Petaluma, amended the motion to extend the existing three-party agreement four months, changing Section 1, Definitions, Section 3.1, Term and Section 16.1, Normal Expiration and also add in language to terminate the extension prior to the dates stated, that language will be found in Section 3.2. Susan Harvey, City of Cotati, seconded. Motion approved with a unanimous vote.

6. Oil Program Contract

Lisa Steinman informed the Board that the SCWMA received one response to the Request for Proposals (RFP) for the Oil Program Services contract. The RFP was from the current contractor, C² Alternative Services. C² Alternative Services met all the requirements of the RFP. The SCWMA has a long history with the C² Alternative Services and is satisfied with their services. SCWMA staff recommends the Board award a contract to audit oil recycling centers and coordinate oil recycling publicity and programs through February 11, 2017 to C² Alternative Services.

Board Discussion

Susan Harvey, City of Cotati, noted that the Oil Payment Program (OPP) funds are expected annually but that there's no guarantee. Ms. Steinman added that was correct. Ms. Harvey asked if the funding for the agreement would come out of the SCWMA budget if the OPP grant was not awarded. Ms. Steinman replied there is language in the agreement that only allows spending of funds allocated through the OPP funds.

Public Comment

None.

Board Comment

Susan Klassen, County of Sonoma, asked if the language in the contract is good enough to terminate the contract should the SCWMA not receive the OPP funds. Janet Coleson, Agency Counsel, answered that Section 4.1 allows termination without cause.

Susan Harvey, City of Cotati, moved to approve the recommendation awarding the contract to C² Alternative Services. Mike Kirn, City of Healdsburg, seconded. Motion carried with a unanimous vote.

7. Spanish Language Outreach Contract

Karina Chilcott reported that in response to the Spanish Language Outreach RFP one proposal was received, which was from the current contractor, C² Alternative Services. SCWMA staff recommends the Board award a two year contract not to exceed \$48,000 for Spanish Outreach Services to C² Alternative Services.

Board Discussion

None.

Public Comment

None.

Board Comment

Sue Kelly, City of Sebastopol, moved to approve the two year contract for Spanish Language Outreach to C² Alternative Services. John McArthur, City of Rohnert Park seconded. Dan St. John City of Petaluma absent. Motion carried.

8. Joint Powers Agreement Expiration

Henry Mikus, Executive Director, reported that a draft Joint Powers Agreement (JPA) was developed per the Board's request. He noted that there are some options on the unanimous vote; (1) eliminating the unanimous vote and replacing it with the super majority requiring eight of ten members, (2) increasing the dollar amount that initiates the unanimous vote and (3) eliminating the unanimous vote requirement and making a majority vote sufficient. Other areas of concern include the renewal term. Staff and Agency Counsel think the "sunset" clause is self defeating. Staff recommends an open end agreement that can be terminated at any time by Board vote.

Janet Coleson, Agency Counsel, stated she completely revamped the JPA agreement. She incorporated language from other JPA agreements she's been collecting over the years. The agreement is the first step towards creating a new JPA agreement.

Board Discussion

Matt Mullan, Town of Windsor, said he doesn't see any value in having a unanimous vote requirement and he's in support of eliminating it and substituting a new voting structure.

Susan Harvey, City of Cotati, had concerns about no mention of food waste in the agreement. Ms. Coleson replied that there's flexibility in the agreement to allow for it, but it wasn't called out specifically.

Mike Kirn, City of Healdsburg, stated the current agreement provides too much specificity and believes some flexibility should be used. The current single use bag ordinance does not specifically state the SCWMA would have the authority to adopt ordinances, but that might be a point of clarification to include. Ms. Coleson stated in most agreements she has not found that to be included, but she could do so.

Susan Harvey, City of Cotati, was concerned about the broadness of the Purpose section and the specifics in the Recital section. Ms. Coleson explained that the recitals are not actually a legal part of the agreement.

Dan St. John, City of Petaluma asked if a non-employee could be appointed to the Board. Ms. Coleson answered that the agreement doesn't currently provide for that, so she didn't change that language.

Chair Regor asked for clarification on Pg. 5, Section D, under Withdrawal of Membership. Ms. Coleson explained that the withdrawing member would be responsible for costs incurred by the SCWMA through the end of the fiscal year. Chair Regor suggested making that item clearer in the agreement. Chair Regor noted that Pg. 7, under Powers and Functions doesn't list the power and authority to raise revenues. Ms. Coleson said it would be covered by the clause including, but not limited to. Ms. Regor noted there are three main issues that need feedback from their jurisdictions; (1) the unanimous vote, (2) Board membership and (3) the open ended term. Ms. Regor asked if there were any other major policy issues they should bring to their respective councils/boards. Mr. Mikus answered one might be the division of funds. Currently organic material generated funds are required to be kept in that program and other programs are funded from the tip fee surcharge. This was a specificity of the existing agreement and it has simply been removed.

Jennifer Phillips, City of Santa Rosa, asked if there should be clarification on the SCWMA's authority to pass an ordinance. Chair Regor replied that is a good policy issue to flag and discuss with their councils/boards.

Public Comment

Ann Hancock, Climate Protection Campaign, believes the expiration of the JPA should be extended indefinitely, the unanimous vote should be removed and Board representation should require elected officials.

Ken Wells, Guiding Sustainability, noted that the County originally instituted and insisted on the unanimous vote requirement and didn't want the SCWMA taking over the landfill, which created a lot of revenue. He suggested the Solid Waste Advisory Group's (SWAG) approach to voting as an option; requiring a majority of the members and a majority of the population. He believes there's no need for an expiration date of the SCWMA and suggested membership flexibility remain with the jurisdictions.

Steve Barbose, City of Sonoma, recapped that neither the County of Sonoma or the City of Santa Rosa would have veto power alone, but the two together would. Mr. Wells replied that was correct.

Board Comment

Chair Regor asked if dates were scheduled for all City Council updates. Mr. Mikus replied no dates have been set for this particular issue. The only dates that have been set are for the bag ban ordinance. Ms. Regor asked if it was possible to combine both topics. After much discussion, it was decided to keep the two issues separate beginning with the single use bag ordinance and then moving ahead with the JPA agreement. The Board recommended the SCWMA bring back a revised draft based on legal and preliminary feedback received. The Board requested the revised version be brought back with policy issues flagged.

9. Carryout Bags Ordinance Report

Patrick Carter reported that a "White Paper" had been developed as the Board requested. It outlines the options of a regional SCWMA ordinance and a model ordinance for individual cities. A summary of costs and risks was included. The SCWMA prefers a countywide ordinance because grocers have expressed the desire for consistency. Mr. Carter detailed the schedule for upcoming presentations to the cities. A copy of the presentation was provided.

Board Discussion

Dan St. John, City of Petaluma, requested the PowerPoint presentation be available to share with his City Council.

Susan Harvey, City of Cotati, asked that the SCWMA address information on what other cities have done in their presentation. Mr. Carter advised he would add a slide with those details.

Steve Barbose, City of Sonoma, suggested a history of environmental challenges with respect to smaller cities be added to the presentation.

Public Comment

None.

Board Comment

None.

10. Attachments/Correspondence

Chair Regor called attention to the Director's Agenda Notes, Reports by Staff and Others; June, July and August 2012 Outreach Events, Update Reports on the MCR Project and Extra Oil Grant Expenditures and Styrofoam Collection at SCWMA monthly E-waste Events.

11. On File with Clerk

Chair Regor noted resolution approved in May 2012 authorizing an Agreement with ECS Refining for Electronic Waste Transportation and Recycling Services.

12. Boardmember Comments

Chair Regor asked if it's been confirmed that the Board is meeting in July, but not August. Mr. Mikus answered that an informal poll was taken and there was consensus to meet in July and cancel the August meeting.

13. Staff Comments

Henry Mikus, Executive Director, brought attention to Item 10.2.d under Attachments and Correspondence. There may be an opportunity to do something with styrofoam collection. Karina Chilcott will report back to the Board on this next month.

Lisa Steinman announced she will be applying for the OPP 3 funds. The Board approved a 2010 resolution authorizing SCWMA staff to submit that application. Letters of authorization will be sent out to each jurisdiction for signature. They will need to be returned before the August 1, 2012 deadline.

Patrick Carter revealed that the Beverage Container Grant checks have been cut and some cities have already forwarded them to the SCWMA. Invoices will be sent out for the grant amount. Next month there will be an item to discuss the use of those funds for next year. This year the SCWMA worked on the Mandatory Commercial Recycling (MCR) efforts with impressive results.

14. Next SCWMA Meeting – July 18, 2012

15. Adjournment

Meeting adjourned at 11:02a.m.

Respectfully submitted,
Debra Dowdell